



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2021-0870; EPA-HQ-OAR-2021-0663; FRL-9468-01-R7]

Air Plan Approval; Iowa; Interstate Transport of Air Pollution for the 2015 8-hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and withdrawal of proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with maintenance of air quality in other states. The State of Iowa made a submission to the Environmental Protection Agency (EPA or Agency) to address these requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). EPA is proposing to approve the submission for Iowa as meeting the requirement that the SIP contains adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. The EPA is also withdrawing its previous proposed rule to approve Iowa's SIP submission, as published in the *Federal Register* on March 2, 2020.

DATES: *Comments:* Written comments on this proposed rule must be received on or before [insert date 30 days after date of publication in the Federal Register].

Withdrawal: As of [insert date of publication in the Federal Register], the proposed rule published March 2, 2020, at 85 FR 12232, is withdrawn.

ADDRESSES: You may send comments, identified as Docket No. EPA-R07-OAR-2021-0870, by any of the following methods: Federal eRulemaking Portal at <https://www.regulations.gov> following the online instructions for submitting comments or via email to

stone.william@epa.gov. Include Docket ID No. EPA-R07-OAR-2021-0870 in the subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this rulemaking.

Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID-19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: *Public participation:* Submit your comments, identified by Docket ID No. EPA-R07-OAR-2021-0870, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system).

There are two dockets supporting this action, EPA-R07-OAR-2021-0870 and EPA-HQ-OAR-2021-0663. Docket No. EPA-R07-OAR-2021-0870 contains information specific to Iowa, including the notice of proposed rulemaking. Docket No. EPA-HQ-OAR-2021-0663 contains additional modeling files, emissions inventory files, technical support documents, and other relevant supporting documentation regarding interstate transport of emissions for the 2015 8-hour ozone NAAQS which are being used to support this action. All comments regarding information in either of these dockets are to be made in Docket No. EPA-R07-OAR-2021-0870. For additional submission methods, please contact William Stone, (913) 551-7714, stone.william@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

The index to the docket for this action, Docket No. EPA-R07-OAR-2021-0870, is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

Throughout this document, “we,” “us,” and “our” means the EPA.

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I. Background

A. Description of Statutory Background

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS (2015 8-hour ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).¹ Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIP submissions meeting the applicable requirements of section 110(a)(2).² One of these applicable requirements is found in CAA section 110(a)(2)(D)(i)(I), otherwise known as the “interstate transport” or “good neighbor” provision, which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on other states due to interstate transport of pollution. There are two so-called “prongs” within CAA section 110(a)(2)(D)(i)(I). A SIP for a new or revised NAAQS must contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting air pollutants in amounts that will significantly contribute to nonattainment of the NAAQS in another state (prong 1) or interfere with maintenance of the NAAQS in another state (prong 2). The EPA and states must give independent significance to prong 1 and prong 2 when evaluating downwind air quality problems under CAA section 110(a)(2)(D)(i)(I).³

B. Description of the EPA's Four Step Interstate Transport Regulatory Process

The EPA is using the 4-step interstate transport framework (or 4-step framework) to evaluate the state's SIP submittals addressing the interstate transport provision for the 2015 8-

¹ National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

² SIP revisions that are intended to meet the applicable requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs and the applicable elements under section 110(a)(2) are referred to as infrastructure requirements.

³ See *North Carolina v. EPA*, 531 F.3d 896, 909-11 (D.C. Cir. 2008).

hour ozone NAAQS. The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to prior ozone NAAQS in several regional regulatory actions, including the Cross-State Air Pollution Rule (CSAPR), which addressed interstate transport with respect to the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter standards,⁴ and the Cross-State Air Pollution Rule Update (CSAPR Update)⁵ and the Revised CSAPR Update, both of which addressed the 2008 ozone NAAQS.⁶

Through the development and implementation of the CSAPR rulemakings and prior regional rulemakings pursuant to the interstate transport provision,⁷ the EPA, working in partnership with states, developed the following 4-step interstate transport framework to evaluate a State's obligations to eliminate interstate transport emissions under the interstate transport provision for the ozone NAAQS: (1) identify monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS (i.e., nonattainment and/or maintenance receptors); (2) identify states that impact those air quality problems in other (i.e., downwind) states sufficiently such that the states are considered "linked" and therefore warrant further review and analysis; (3) identify the emissions reductions necessary (if any), applying a multifactor analysis, to eliminate each linked upwind state's significant contribution to nonattainment or interference with maintenance of the NAAQS at the locations identified in step 1; and (4) adopt permanent and enforceable measures needed to achieve those emissions reductions.

C. Background on the EPA's Ozone Transport Modeling Information

⁴ See Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (Aug. 8, 2011).

⁵ Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 81 FR 74504 (Oct. 26, 2016).

⁶ In 2019, the D.C. Circuit Court of Appeals remanded the CSAPR Update to the extent it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a). *Wisconsin v. EPA*, 938 F.3d 303, 313 (D.C. Cir. 2019). The Revised CSAPR Update for the 2008 Ozone NAAQS, 86 FR 23054 (April 30, 2021), responded to the remand of the CSAPR Update in *Wisconsin* and the vacatur of a separate rule, the "CSAPR Close-Out," 83 FR 65878 (December 21, 2018), in *New York v. EPA*, 781 F. App'x. 4 (D.C. Cir. 2019).

⁷ In addition to the CSAPR rulemakings, other regional rulemakings addressing ozone transport include the "NO_x SIP Call," 63 FR 57356 (October 27, 1998), and the "Clean Air Interstate Rule" (CAIR), 70 FR 25162 (May 12, 2005).

In general, the EPA has performed nationwide air quality modeling to project ozone design values which are used in combination with measured data to identify nonattainment and maintenance receptors. To quantify the contribution of emissions from specific upwind states on 2023 ozone design values for the identified downwind nonattainment and maintenance receptors, the EPA performed nationwide, state-level ozone source apportionment modeling for 2023. The source apportionment modeling provided contributions to ozone at receptors from precursor emissions of anthropogenic nitrogen oxides (NO_x) and volatile organic compounds (VOCs) in individual upwind states.

The EPA has released several documents containing projected ozone design values, contributions, and information relevant to evaluating interstate transport with respect to the 2015 8-hour ozone NAAQS. First, on January 6, 2017, the EPA published a notice of data availability (NODA) in which we requested comment on preliminary interstate ozone transport data including projected ozone design values and interstate contributions for 2023 using a 2011 base year platform.⁸ In the NODA, the EPA used the year 2023 as the analytic year for this preliminary modeling because that year aligns with the expected attainment year for Moderate ozone nonattainment areas for the 2015 8-hour ozone NAAQS.⁹ On October 27, 2017, we released a memorandum (October 2017 memorandum) containing updated modeling data for 2023, which incorporated changes made in response to comments on the NODA, and noted that the modeling may be useful for states developing SIPs to address interstate transport obligations for the 2008 ozone NAAQS.¹⁰ On March 27, 2018, we issued a memorandum (March 2018 memorandum) noting that the same 2023 modeling data released in the October 2017 memorandum could also be useful for identifying potential downwind air quality problems with

⁸ See Notice of Availability of the Environmental Protection Agency's Preliminary Interstate Ozone Transport Modeling Data for the 2015 8-hour Ozone National Ambient Air Quality Standard (NAAQS), 82 FR 1733 (January 6, 2017).

⁹ 82 FR at 1735.

¹⁰ See Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), October 27, 2017, available in docket ID No. EPA-HQ-OAR-2021-0663 or at <https://www.epa.gov/node/194139/>.

respect to the 2015 8-hour ozone NAAQS at Step 1 of the 4-step interstate transport framework.¹¹ The March 2018 memorandum also included the then newly available contribution modeling data to assist states in evaluating their impact on potential downwind air quality problems for the 2015 8-hour ozone NAAQS under Step 2 of the 4-step interstate transport framework.¹² The EPA subsequently issued two more memoranda in August and October 2018, providing additional information to states developing interstate transport SIP submissions for the 2015 8-hour ozone NAAQS concerning, respectively, potential contribution thresholds that may be appropriate to apply in Step 2 of the 4-step interstate transport framework, and considerations for identifying downwind areas that may have problems maintaining the standard at Step 1 of the 4-step interstate transport framework.¹³

Since the release of the modeling data shared in the March 2018 memorandum, the EPA performed updated modeling using a 2016-based emissions modeling platform (i.e., 2016v1). This emissions platform was developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project.¹⁴ This collaborative project was a multi-year joint effort by the EPA, MJOs, and states to develop a new, more recent emissions platform for use by the EPA and states in regulatory modeling as an improvement over the dated 2011-based platform that the EPA had used to project ozone design values and contribution data provided in the 2017 and 2018 memoranda. The EPA used the 2016v1 emissions to project ozone design values and

¹¹ See Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), March 27, 2018 (“March 2018 memorandum”), available in docket ID No. EPA-HQ-OAR-2021-0663 or at <https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs>.

¹² The March 2018 memorandum, however, provided, “While the information in this memorandum and the associated air quality analysis data could be used to inform the development of these SIPs, the information is not a final determination regarding states’ obligations under the good neighbor provision. Any such determination would be made through notice-and-comment rulemaking.”

¹³ See Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, August 31, 2018 (“August 2018 memorandum”), and Considerations for Identifying Maintenance Receptors for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, October 19, 2018, available in docket ID No. EPA-HQ-OAR-2021-0663 or at <https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs>.

¹⁴ The results of this modeling, as well as the underlying modeling files, are included in docket ID No. EPA-HQ-OAR-2021-0663.

contributions for 2023. On October 30, 2020, in the Notice of Proposed Rulemaking for the Revised CSAPR Update, the EPA released and accepted public comment on 2023 modeling that used the 2016v1 emissions platform.¹⁵ Although the Revised CSAPR Update addressed transport for the 2008 ozone NAAQS, the projected design values and contributions from the 2016v1 platform are also useful for identifying downwind ozone problems and linkages with respect to the 2015 ozone NAAQS.¹⁶

Following the final Revised CSAPR Update, the EPA made further updates to the 2016 emissions platform to include mobile emissions from the EPA's Motor Vehicle Emission Simulator MOVES3 model¹⁷ and updated emissions projections for electric generating units (EGUs) that reflect the emissions reductions from the Revised CSAPR Update, recent information on plant closures, and other sector trends. The construct of the updated emissions platform, 2016v2, is described in the emissions modeling technical support document (TSD) for this proposed rule.¹⁸ The EPA performed air quality modeling of the 2016v2 emissions using the most recent public release version of the Comprehensive Air-quality Model with extensions (CAMx) photochemical modeling, version 7.10.¹⁹ The EPA now proposes to primarily rely on modeling based on the updated and newly available 2016v2 emissions platform in evaluating these submissions with respect to Steps 1 and 2 of the 4-step interstate transport framework and generally referenced within this action as 2016v2 modeling for 2023. By using the updated modeling results, the EPA is using the most current and technically appropriate information for this proposed rulemaking. Section III of this document and the Air Quality Modeling TSD for 2015 Ozone NAAQS Transport SIP Proposed Actions, included in Docket ID No. EPA-HQ-

¹⁵ See 85 FR 68964, 68981

¹⁶ See the Air Quality Modeling Technical Support Document for the Final Revised Cross-State Air Pollution Rule Update, included in the Headquarters docket ID No. EPA-HQ-OAR-2021-0663.

¹⁷ Additional details and documentation related to the MOVES3 model can be found at <https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves>.

¹⁸ See Technical Support Document (TSD) Preparation of Emissions Inventories for the 2016v2 North American Emissions Modeling Platform included in the Headquarters docket ID No. EPA-HQ-OAR-2021-0663.

¹⁹ Ramboll Environment and Health, January 2021, www.camx.com.

OAR-2021-0663 for this proposal, contain additional detail on the EPA's 2016v2 modeling. In this document, the EPA is accepting public comment on this updated 2023 modeling, which uses a 2016v2 emissions platform. Comments on the EPA's air quality modeling should be submitted in the Regional docket for this action, docket ID No. EPA-R07-OAR-2021-0870. Comments are not being accepted in docket ID No. EPA-HQ-OAR-2021-0663.

D. The EPA's Approach to Evaluating Interstate Transport SIPs for the 2015 8-hour ozone NAAQS

The EPA proposes to apply a consistent set of policy judgments across all states for purposes of evaluating interstate transport obligations and the approvability of interstate transport SIP submittals for the 2015 8-hour ozone NAAQS. These policy judgments reflect consistency with relevant case law and past agency practice as reflected in the CSAPR and related rulemakings. Nationwide consistency in approach is particularly important in the context of interstate ozone transport, which is a regional-scale pollution problem involving many smaller contributors. Effective policy solutions to the problem of interstate ozone transport going back to the NO_x SIP Call have necessitated the application of a uniform framework of policy judgments in order to ensure an "efficient and equitable" approach. *See EME Homer City Generation, LP v. EPA*, 572 U.S. 489, 519 (2014).

In the March, August, and October 2018 memoranda, the EPA recognized that states may be able to establish alternative approaches to addressing their interstate transport obligations for the 2015 8-hour ozone NAAQS that vary from a nationally uniform framework. The EPA emphasized in these memoranda, however, that such alternative approaches must be technically justified and appropriate in light of the facts and circumstances of each particular state's submittal. In general, the EPA continues to believe that deviation from a nationally consistent approach to ozone transport must be substantially justified and have a well-documented technical basis that is consistent with relevant case law. Where states submitted SIPs that rely on any such

potential “flexibilities” as may have been identified or suggested in the past, the EPA will evaluate whether the state adequately justified the technical and legal basis for doing so.

The EPA notes that certain concepts included in an attachment to the March 2018 memorandum require unique consideration, and these ideas do not constitute agency guidance with respect to transport obligations for the 2015 ozone NAAQS. Attachment A to the March 2018 memorandum identified a “Preliminary List of Potential Flexibilities” that could potentially inform SIP development.²⁰ However, EPA made clear in that Attachment that the list of ideas were not suggestions endorsed by the Agency but rather “comments provided in various forums” on which EPA sought “feedback from interested stakeholders.”²¹ Further, Attachment A stated, “EPA is not at this time making any determination that the ideas discussed below are consistent with the requirements of the CAA, nor are we specifically recommending that states use these approaches.”²² Attachment A to the March 2018 memorandum, therefore, does not constitute agency guidance, but was intended to generate further discussion around potential approaches to addressing ozone transport among interested stakeholders. To the extent states sought to develop or rely on these ideas in support of their SIP submittals, EPA will thoroughly review the technical and legal justifications for doing so.

The remainder of this section describes the EPA’s proposed framework with respect to analytic year, definition of nonattainment and maintenance receptors, selection of contribution threshold, and multifactor control strategy assessment.

1. Selection of Analytic Year

In general, the states and the EPA must implement the interstate transport provision in a manner “consistent with the provisions of [title I of the CAA.]” CAA section 110(a)(2)(D)(i). This requires, among other things, that these obligations are addressed consistently with the timeframes for downwind areas to meet their CAA obligations. With respect to ozone NAAQS,

²⁰ March 2018 memorandum, Attachment A.

²¹ *Id.* at A-1.

²² *Id.*

under CAA section 181(a), this means obligations must be addressed “as expeditiously as practicable” and no later than the schedule of attainment dates provided in CAA section 181(a)(1).²³ Several D.C. Circuit court decisions address the issue of the relevant analytic year for the purposes of evaluating ozone transport air-quality problems. On September 13, 2019, the D.C. Circuit issued a decision in *Wisconsin v. EPA*, remanding the CSAPR Update to the extent that it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a). 938 F.3d at 313.

On May 19, 2020, the D.C. Circuit issued a decision in *Maryland v. EPA* that cited the *Wisconsin* decision in holding that the EPA must assess the impact of interstate transport on air quality at the next downwind attainment date, including Marginal area attainment dates, in evaluating the basis for the EPA’s denial of a petition under CAA section 126(b). *Maryland v. EPA*, 958 F.3d 1185, 1203-04 (D.C. Cir. 2020). The court noted that “section 126(b) incorporates the Good Neighbor Provision,” and, therefore, “EPA must find a violation [of section 126] if an upwind source will significantly contribute to downwind nonattainment at the next downwind attainment deadline. Therefore, the agency must evaluate downwind air quality at that deadline, not at some later date.” *Id.* at 1204 (emphasis added). The EPA interprets the court’s holding in *Maryland* as requiring the states and the Agency, under the good neighbor provision, to assess downwind air quality as expeditiously as practicable and no later than the next applicable attainment date,²⁴ which is now the Moderate area attainment date under CAA section 181 for ozone nonattainment. The Moderate area attainment date for the 2015 8-hour

²³ For attainment dates for the 2015 8-hour ozone NAAQS, refer to CAA section 181(a), 40 CFR 51.1303, and Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018, effective Aug. 3, 2018).

²⁴ We note that the court in *Maryland* did not have occasion to evaluate circumstances in which the EPA may determine that an upwind linkage to a downwind air quality problem exists at steps 1 and 2 of the interstate transport framework by a particular attainment date, but for reasons of impossibility or profound uncertainty the Agency is unable to mandate upwind pollution controls by that date. *See Wisconsin*, 938 F.3d at 320. The D.C. Circuit noted in *Wisconsin* that upon a sufficient showing, these circumstances may warrant flexibility in effectuating the purpose of the interstate transport provision.

ozone NAAQS is August 3, 2024.²⁵ The EPA believes that 2023 is now the appropriate year for analysis of interstate transport obligations for the 2015 8-hour ozone NAAQS, because the 2023 ozone season is the last relevant ozone season during which achieved emissions reductions in linked upwind states could assist downwind states with meeting the August 3, 2024, Moderate area attainment date for the 2015 8-hour ozone NAAQS.

The EPA recognizes that the attainment date for nonattainment areas classified as Marginal for the 2015 8-hour ozone NAAQS was August 3, 2021. Under the *Maryland* holding, any necessary emissions reductions to satisfy interstate transport obligations should have been implemented by no later than this date. At the time of the statutory deadline to submit interstate transport SIPs (October 1, 2018), many states relied upon the EPA modeling of the year 2023, and no state provided an alternative analysis using a 2021 analytic year (or the prior 2020 ozone season). However, the EPA must act on SIP submittals using the information available at the time it takes such action. In this circumstance, the EPA does not believe it would be appropriate to evaluate states' obligations under CAA section 110(a)(2)(D)(i)(I) as of an attainment date that is wholly in the past, because the Agency interprets the interstate transport provision as forward looking. *See* 86 FR at 23074; *see also Wisconsin*, 938 F.3d at 322. Consequently, in this proposal the EPA will use the analytical year of 2023 to evaluate each state's CAA section 110(a)(2)(D)(i)(I) SIP submission with respect to the 2015 8-hour ozone NAAQS.

2. Step 1 of the 4-Step Interstate Transport Framework

In Step 1, the EPA identifies monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS in the 2023 analytic year. Where the EPA's analysis shows that a site does not fall under the definition of a nonattainment or maintenance receptor, that site is excluded from further analysis under the EPA's 4-step interstate transport framework. For sites that are identified as a nonattainment or maintenance receptor in 2023, we proceed to

²⁵ *See* CAA section 181(a); 40 CFR 51.1303; Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018, effective Aug. 3, 2018).

the next step of our 4-step interstate transport framework by identifying the upwind state's contribution to those receptors.

The EPA's approach to identifying ozone nonattainment and maintenance receptors in this action is consistent with the approach used in previous transport rulemakings. The EPA's approach gives independent consideration to both the "contribute significantly to nonattainment" and the "interfere with maintenance" prongs of CAA section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina v. EPA*.²⁶

For the purpose of this proposal, the EPA identifies nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS and that are also measuring nonattainment based on the most recent monitored design values. This approach is consistent with prior transport rulemakings, such as the CSAPR Update, where the EPA defined nonattainment receptors as those areas that both currently measure nonattainment and that the EPA projects will be in nonattainment in the future analytic year (i.e., 2023).²⁷

In addition, in this proposal, the EPA identifies a receptor to be a "maintenance" receptor for purposes of defining interference with maintenance, consistent with the method used in the CSAPR and upheld by the D.C. Circuit in *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 136 (D.C. Cir. 2015).²⁸ Specifically, the EPA identified maintenance receptors as those receptors that would have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor. The variability in air quality was determined by evaluating the "maximum" future design value at each receptor based on a projection of the maximum measured design value over the relevant period. EPA interprets the projected maximum future design value to be a potential future air quality outcome consistent

²⁶ See *North Carolina v. EPA*, 531 F.3d at 910-11 (holding that the EPA must give "independent significance" to each prong of CAA section 110(a)(2)(D)(i)(I)).

²⁷ See 81 FR 74504 (October 26, 2016). This same concept, relying on both current monitoring data and modeling to define nonattainment receptor, was also applied in CAIR. See 70 FR at 25241, 25249 (January 14, 2005); see also *North Carolina*, 531 F.3d at 913-14 (affirming as reasonable EPA's approach to defining nonattainment in CAIR).

²⁸ See 76 FR 48208 (August 8, 2011). CSAPR Update and Revised CSAPR Update also used this approach. See 81 FR 74504 (October 26, 2016) and 86 FR 23054 (April 30, 2021).

with the meteorology that yielded maximum measured concentrations in the ambient data set analyzed for that receptor (i.e., ozone conducive meteorology). EPA also recognizes that previously experienced meteorological conditions (e.g., dominant wind direction, temperatures, air mass patterns) promoting ozone formation that led to maximum concentrations in the measured data may reoccur in the future. The maximum design value gives a reasonable projection of future air quality at the receptor under a scenario in which such conditions do, in fact, reoccur. The projected maximum design value is used to identify upwind emissions that, under those circumstances, could interfere with the downwind area's ability to maintain the NAAQS.

Recognizing that nonattainment receptors are also, by definition, maintenance receptors, the EPA often uses the term "maintenance-only" to refer to those receptors that are not nonattainment receptors. Consistent with the concepts for maintenance receptors, as described above, the EPA identifies "maintenance-only" receptors as those monitoring sites that have projected average design values above the level of the applicable NAAQS, but that are not currently measuring nonattainment based on the most recent official design values. In addition, those monitoring sites with projected average design values below the NAAQS, but with projected maximum design values above the NAAQS are also identified as "maintenance only" receptors, even if they are currently measuring nonattainment based on the most recent official design values.

3. Step 2 of the 4-Step Interstate Transport Framework

In Step 2 the EPA quantifies the contribution of each upwind state to each receptor in the 2023 analytic year. The contribution metric used in Step 2 is defined as the average impact from each state to each receptor on the days with the highest ozone concentrations at the receptor based on the 2023 modeling. If a state's contribution value does not equal or exceed the threshold of 1 percent of the NAAQS (i.e., 0.70 ppb for the 2015 8-hour ozone NAAQS), the upwind state is not "linked" to a downwind air quality problem, and the EPA, therefore,

concludes that the state does not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind states. However, if a state's contribution equals or exceeds the 1 percent threshold, the state's emissions are further evaluated in Step 3, considering both air quality and cost as part of a multi-factor analysis, to determine what, if any, emissions might be deemed "significant" and, thus, must be eliminated under CAA section 110(a)(2)(D)(i)(I). The EPA is proposing to rely in the first instance on the 1 percent threshold for the purpose of evaluating a state's contribution to nonattainment or maintenance of the 2015 8-hour ozone NAAQS (i.e., 0.70 ppb) at downwind receptors. This is consistent with the Step 2 approach that the EPA applied in CSAPR for the 1997 ozone NAAQS, which has subsequently been applied in the CSAPR Update when evaluating interstate transport obligations for the 2008 ozone NAAQS. The EPA continues to find 1 percent to be an appropriate threshold. For ozone, as the EPA found in the Clean Air Interstate Rule (CAIR), CSAPR, and CSAPR Update, a portion of the nonattainment problems from anthropogenic sources in the U.S. results from the combined impact of relatively small contributions from many upwind states, along with contributions from in-state sources and, in some cases, substantially larger contributions from a subset of particular upwind states. The EPA's analysis shows that much of the ozone transport problem being analyzed in this proposed rule is still the result of the collective impacts of contributions from many upwind states. Therefore, application of a consistent contribution threshold is necessary to identify those upwind states that should have responsibility for addressing their contribution to the downwind nonattainment and maintenance problems to which they collectively contribute. Continuing to use 1 percent of the NAAQS as the screening metric to evaluate collective contribution from many upwind states also allows the EPA (and states) to apply a consistent framework to evaluate interstate emissions transport under the interstate transport provision from one NAAQS to the next. *See* 81 FR at 74518. *See also* 86 FR at 23085 (reviewing and explaining rationale from CSAPR, 76 FR at 48237-38, for selection of 1 percent threshold).

The EPA's August 2018 memorandum recognized that in certain circumstances, a state may be able to establish that an alternative contribution threshold of 1 ppb is justifiable. Where a state relies on this alternative threshold, and where that state determined that it was not linked at Step 2 using the alternative threshold, the EPA will evaluate whether the state provided a technically sound assessment of the appropriateness of using this alternative threshold based on the facts and circumstances underlying its application in the particular SIP submission.

4. Step 3 of the 4-Step Interstate Transport Framework

Consistent with the EPA's longstanding approach to eliminating significant contribution or interference with maintenance, at Step 3, states linked at Steps 1 and 2 are generally expected to prepare a multifactor assessment of potential emissions controls. The EPA's analysis at Step 3 in prior Federal actions addressing interstate transport requirements has primarily focused on an evaluation of cost-effectiveness of potential emissions controls (on a marginal cost-per-ton basis), the total emissions reductions that may be achieved by requiring such controls (if applied across all linked upwind states), and an evaluation of the air quality impacts such emissions reductions would have on the downwind receptors to which a state is linked; other factors may potentially be relevant if adequately supported. In general, where the EPA's or alternative air quality and contribution modeling establishes that a state is linked at Steps 1 and 2, it will be insufficient at Step 3 for a state merely to point to its existing rules requiring control measures as a basis for approval. In general, the emissions-reducing effects of all existing emissions control requirements are already reflected in the air quality results of the modeling for steps 1 and 2. If the state is shown to still be linked to one or more downwind receptor(s), states must provide a well-documented evaluation determining whether their emissions constitute significant contribution or interference with maintenance by evaluating additional available control opportunities by preparing a multifactor assessment. While the EPA has not prescribed a particular method for this assessment, the EPA expects states at a minimum to present a sufficient technical evaluation. This would typically include information on emissions sources,

applicable control technologies, emissions reductions, costs, cost effectiveness, and downwind air quality impacts of the estimated reductions, before concluding that no additional emissions controls should be required.²⁹

5. Step 4 of the 4-Step Interstate Transport Framework

At Step 4, states (or the EPA) develop permanent and federally enforceable control strategies to achieve the emissions reductions determined to be necessary at Step 3 to eliminate significant contribution to nonattainment or interference with maintenance of the NAAQS. For a state linked at Steps 1 and 2 to rely on an emissions control measure at Step 3 to address its interstate transport obligations, that measure must be included in the state's SIP so that it is permanent and federally enforceable. *See* CAA section 110(a)(2)(D) ("Each such [SIP] shall . . . contain adequate provisions . . ."). *See also* CAA 110(a)(2)(A); *Committee for a Better Arvin v. U.S. E.P.A.*, 786 F.3d 1169, 1175-76 (9th Cir. 2015) (holding that measures relied on by state to meet CAA requirements must be included in the SIP).

II. Iowa's SIP Submission Addressing Interstate Transport of Air Pollution for the 2015 8-hour ozone NAAQS

On November 30, 2018, Iowa submitted a SIP revision addressing the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 ozone NAAQS. Iowa chose to rely on the results of EPA's 2023 modeling, as presented in the March 2018 memorandum, to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in Iowa. Based on Iowa's review of the EPA's modeling assumptions and model performance evaluation, Iowa determined that EPA's future year projections were appropriate for purposes of evaluating Iowa's impact on attainment and maintenance of the 2015 ozone NAAQS in other states.

²⁹ As examples of general approaches for how such an analysis could be conducted for their sources, states could look to the CSAPR Update, 81 FR 74504, 74539-51; CSAPR, 76 FR 48208, 48246-63; CAIR, 70 FR 25162, 25195-229; or the NOX SIP Call, 63 FR 57356, 57399-405. *See also* Revised CSAPR Update, 86 FR 23054, 23086-23116. Consistently across these rulemakings, the EPA has developed emissions inventories, analyzed different levels of control stringency at different cost thresholds, and assessed resulting downwind air quality improvements.

Iowa relied on EPA's 2023 modeling to conclude that the state does not contribute significantly to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. Iowa referred to the analytic information in EPA's August 2018 memorandum as a basis to use a 1 ppb contribution threshold when evaluating the state's contribution to downwind receptors at Step 2 of EPA's four-step interstate transport framework. Using EPA's modeling, Iowa identified that it is projected to contribute below 1 percent of the 2015 ozone NAAQS (i.e., less than 0.70 ppb) to all but two downwind receptors: the nonattainment receptor in Milwaukee County, Wisconsin (Milwaukee receptor), and the maintenance-only receptor in Allegan County, Michigan (Allegan receptor). Iowa's contribution to these two receptors was projected to be between 1 percent and 1 ppb. Iowa concluded that 1 ppb is an appropriate contribution threshold to apply with respect to the 2015 ozone NAAQS and that Iowa's emissions therefore do not contribute to nonattainment or maintenance problems at either receptor.

Iowa noted that its 2023 modeled contribution to the Milwaukee receptor is 0.79 ppb, and its 2023 modeled contribution to the Allegan receptor is 0.77 ppb. Iowa further noted that application of the 1 ppb threshold captures 83 percent of the upwind contribution captured at the 1 percent threshold at the Milwaukee receptor and 94 percent of the upwind contribution captured at the 1 percent threshold at the Allegan receptor. Based on these data, Iowa concluded that the 1 ppb threshold is therefore appropriate because it captures a “substantial portion” of the transported contribution from upwind states when compared to the 1 percent threshold at both receptors. Because the state's impact on both receptors was projected to be below the 1 ppb threshold, the state concluded that its emissions will not contribute significantly to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in downwind states.

III. Withdrawal of Prior Proposed Approval

On March 2, 2020, EPA proposed to approve portions of the infrastructure SIP submission received from the State of Iowa on November 30, 2018, in accordance with section

110(a)(1) of the CAA. In the document, the EPA proposed to approve the portion of the SIP addressing section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1), and interference with maintenance of the NAAQS (prong 2). This proposal relied on results of EPA's 2023 modeling, as presented in the March 2018 memorandum explained above, as well as the State's argument for using the 1 ppb threshold in Step 2 rather than the 1 percent threshold. The action received two adverse comments. In this document, we are withdrawing our March 2, 2020, proposed approval. We are now reproposing approval based on new modeling and a new rationale for approval based on that new modeling, as discussed in section IV.

IV. EPA Evaluation of Iowa's submission

Iowa's SIP submission relies on analysis of the year 2023 (using a 2011 base year platform) to conclude that the State does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. As explained in section I of this proposal, the EPA has conducted an updated analysis for the 2023 analytical year (using a 2016 base year platform) and proposes to rely primarily on this updated modeling to evaluate Iowa's transport SIP submission.

As described in section I, the EPA performed air quality modeling to project design values and contributions for 2023 using the 2016v2 emissions platform. The design values and contributions were examined to determine if Iowa contributes at or above the threshold of 1 percent of the 2015 ozone NAAQS (0.70 ppb) to any downwind nonattainment or maintenance receptor. The data³⁰ indicate that the highest contribution in 2023 from Iowa to a downwind nonattainment and maintenance receptors is 0.64 ppb and 0.58 ppb, respectively.³¹

³⁰ Design values and contributions at individual monitoring sites nationwide are provide in the file: 2016v2_DVs_state_contributions.xlsx which is included in docket ID No. EPA-HQ-OAR-2021-0663.

³¹ The EPA's analysis indicates that Iowa will have a 0.64 ppb impact at the projected nonattainment receptor in Kenosha County, Wisconsin (Site ID 550590019), which has a 2023 projected average design value of 72.8 ppb and a 2023 projected maximum design value of 73.7 ppb. The EPA's analysis further indicates that Iowa will have a 0.58 ppb impact at a projected maintenance receptor in Cook County, Illinois (Site ID 170310032), which has which has a projected 2023 average design value of 69.8 ppb and a 2023 projected maximum design value of 72.4 ppb.

Based on the EPA's updated modeling, it is no longer necessary to evaluate Iowa's use of 1 ppb as a contribution threshold at Step 2. The state is projected to contribute less than a 1 percent threshold. While the EPA does not, in this action, approve of the state's application of the 1 ppb threshold, based on the state's contributions of less than 1 percent to projected downwind nonattainment or maintenance receptors, the state's use of this alternative threshold is inconsequential to our action on this SIP submittal. The EPA is proposing to approve Iowa's SIP submission on the basis of the use of a 1 percent contribution threshold at Step 2.

The EPA's evaluation of measured and monitored data and contribution values in 2023, as discussed in this section, is consistent with conclusions made by Iowa that emissions from sources in the State will not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

V. Proposed Action

The EPA is proposing to approve a portion of Iowa's November 30, 2018, SIP submittal as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. The EPA has addressed the remaining infrastructure elements included in Iowa's submittal in a separate action. Additionally, this proposal withdraws and replaces EPA's March 2, 2020, proposed rule as discussed in section III.

The Agency is soliciting public comments on its proposed approval of the CAA section 110(a)(2)(D)(i)(I) element of Iowa's infrastructure SIP submittal for the 2015 ozone NAAQS. Significant comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices,

provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 1, 2022.

Meghan A. McCollister,
Regional Administrator,
Region 7.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. In §52.820, the table in paragraph (e) is amended by adding an entry for “(55)” in numerical order to read as follows:

§52.820 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Iowa Nonregulatory Provisions

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
**	*	*	*	**
(55) Transport SIP for the 2015 Ozone Standard	Statewide	11/30/2018	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	[EPA-R07-OAR-2021-0870; EPA-HQ-OAR-2021-0663; FRL- 9468-01-R7]. This transport SIP shows that Iowa does not significantly contribute to ozone nonattainment or maintenance in any other state. This submittal is approved as meeting the requirements of Clean Air Act section 110(a)(2)(D)(i)(I).

[FR Doc. 2022-02935 Filed: 2/18/2022 8:45 am; Publication Date: 2/22/2022]